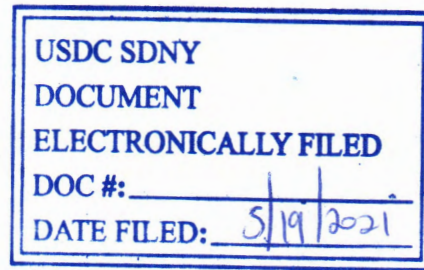


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA

- v. -

JOSE RAFAEL NUNEZ DUARTE,  
a/k/a "Jose Javier Rivera Bernard,"

Defendant.

CONSENT PRELIMINARY ORDER  
OF FORFEITURE AS TO SPECIFIC  
PROPERTY/  
MONEY JUDGMENT

SI 20 Cr. 329 (CM)

WHEREAS, on or about April 7, 2021, JOSE RAFAEL NUNEZ DUARTE, a/k/a "Jose Javier Rivera Bernard," (the "Defendant"), was charged in a one-count Superseding Information, SI 20 Cr. 329 (CM) (the "Information"), with distributing and possessing with intent to distribute mixtures and substances containing fentanyl, heroin, methamphetamine, its salts, isomers and salts of its isomers, in violation of Title 21, United States Code, Sections 812, 841.(a)(1) and (b)(1)(A) and Title 18, United States Code, Section 2 (Count One);

WHEREAS, the Information included a forfeiture allegation as to Count One of the Information, seeking forfeiture to the United States, pursuant to Title 21, United States Code, Section 853, of any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of the offense charged in Count One of the Information and any and all property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the offense charged in Count One of the Information, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offense charged in Count One of the Information;

WHEREAS, on or about January 9, 2020, \$97,500 in United States currency was seized by the Government from the Defendant's residence located in Bronx, New York ("Seized Currency-1");

WHEREAS, on or about January 9, 2020, \$1,000 in United States currency was seized by the Government from the Defendant ("Seized Currency-2", collectively, with Seized Currency-1, the "Seized Currencies");

WHEREAS, on or about January 9, 2020, \$114,070 in United States currency was seized by the Government from the front passenger side floor of the Defendant's Nissan Maxima vehicle (the "Specific Property");

WHEREAS, on or about April 7, 2021, the Defendant pled guilty to Count One of the Information, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Count One of the Information and agreed to forfeit to the United States, pursuant to Title 21, United States Code, Section 853, a sum of money equal to \$212,570 in United States currency, representing proceeds traceable to the commission of the offense charged in Count One of Information;

WHEREAS, the Defendant consents to the entry of a money judgment in the amount of \$212,570 in United States currency representing the amount of proceeds traceable to the offense charged in Count One of the Information that the Defendant personally obtained;

WHEREAS, on September 1, 2020, a Declaration of Administrative Forfeiture was entered forfeiting the Seized Currency-1 to the Government; :

WHEREAS, on September 8, 2020, a Declaration of Administrative Forfeiture was entered forfeiting the Seized Currency-2 to the Government::

WHEREAS, the Defendant further consents to the forfeiture of all his right, title and interest in the Specific Property, which constitutes proceeds of the offense charged in Count One of the Information;

WHEREAS, the Defendant admits that, as a result of acts and/or omissions of the Defendant, the proceeds traceable to the offense charged in Count One of the Information that the Defendant personally obtained cannot be located upon the exercise of due diligence, with the exception of the Seized Currencies and the Specific Property; and

WHEREAS, pursuant to Title 21, United States Code, Section 853(g), and Rules 32.2(b)(3), and 32.2(b)(6) of the Federal Rules of Criminal Procedure, the Government is now entitled, pending any assertion of third-party claims, to reduce the Specific Property to its possession and to notify any and all persons who reasonably appear to be a potential claimant of their interest herein;

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Audrey Strauss, United States Attorney, Assistant United States Attorney, Brett M. Kalikow of counsel, and the Defendant, and his counsel, Mark I. Cohen, Esq., that:

1. As a result of the offense charged in Count One of the Information, to which the Defendant pled guilty, a money judgment in the amount of \$212,570 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offense charged in Count One of the Information that the Defendant personally obtained, shall be entered against the Defendant.

2. As a result of the offense charged in Count One of the Information, to which the Defendant pled guilty, all of the Defendant's right, title and interest in the Specific Property is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of Title 21, United States Code, Section 853.

3. The Seized Currencies shall be applied towards the satisfaction of the Money Judgment.

4. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the Defendant, JOSE RAFAEL NUNEZ DUARTE, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

5. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Marshals Service, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the Defendant's name and case number.

6. The United States Marshals Service is authorized to deposit the payments on the Money Judgment in the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

7. Upon entry of this Consent Preliminary Order of Forfeiture as to Specific Property/Money Judgment, the United States (or its designee) is hereby authorized to take possession of the Specific Property and to hold such property in its secure custody and control.

8. Pursuant to Title 21, United States Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions, the United States is permitted to publish forfeiture notices on the government internet site, [www.forfeiture.gov](http://www.forfeiture.gov). This site incorporates the forfeiture notices that have been traditionally published in newspapers. The United States forthwith shall publish the internet ad for at least thirty

(30) consecutive days. Any person, other than the Defendant, claiming interest in the Specific Property must file a Petition within sixty (60) days from the first day of publication of the Notice on this official government internet web site, or no later than thirty-five (35) days from the mailing of actual notice, whichever is earlier

9. The published notice of forfeiture shall state that the petition (i) shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Specific Property, (ii) shall be signed by the petitioner under penalty of perjury, and (iii) shall set forth the nature and extent of the petitioner's right, title or interest in the Specific Property, the time and circumstances of the petitioner's acquisition of the right, title and interest in the Specific Property, any additional facts supporting the petitioner's claim, and the relief sought, pursuant to Title 21, United States Code, Section 853(n).

10. Pursuant to 32.2 (b)(6)(A) of the Federal Rules of Criminal Procedure, the Government shall send notice to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture in the ancillary proceeding.

11. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture with respect to the Specific Property pursuant to Title 21, United States Code, Section 853(n), in which all interests will be addressed. All Specific Property forfeited to the United States under a Final Order of Forfeiture shall be applied towards the satisfaction of the Money Judgment.

12. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

13. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

14. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture as to Specific Property/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

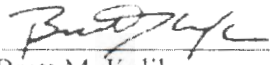
15. The Clerk of the Court shall forward three certified copies of this Consent Preliminary Order of Forfeiture as to Specific Property/Money Judgment to Assistant United States Attorney Alexander J. Wilson, Co-Chief of the Money Laundering and Transnational Criminal Enterprises Unit, United States Attorney's Office, One St. Andrew's Plaza, New York, New York 10007.

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16. The signature page of this Consent Preliminary Order of Forfeiture as to Specific Property/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

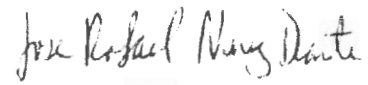
AGREED AND CONSENTED TO:

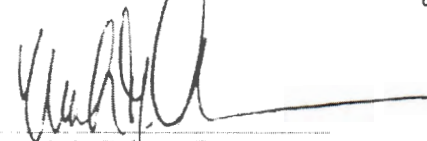
AUDREY STRAUSS  
United States Attorney for the  
Southern District of New York

By:   
Brett M. Kalikow  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, NY 10007  
(212) 637-2220

4/7/2021  
DATE

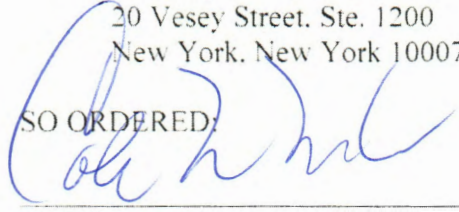
JOSE RAFAEL NUNEZ DUARTE

By:  executed with  
Jose Rafael Nunez Duarte Mr. Nunez-Duarte's  
Consent by Mark I. Cohen on the above date.  
DATE

By:   
Mark I. Cohen, Esq.  
Attorney for Defendant  
20 Vesey Street, Ste. 1200  
New York, New York 10007

5/12/21  
DATE

SO ORDERED:

  
HONORABLE COLLEEN MCMAHON  
CHIEF UNITED STATES DISTRICT JUDGE

5/18/2021  
DATE